

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**REGIS INSURANCE COMPANY,**

**Plaintiff,**

**V.**

**P&C GROCERS, INC.,  
CHARLES PARKER, and  
CECILIA GIBBS,**

## Defendants

**CIVIL ACTION NO.  
1:06-CV-125-MEF**

**P&C GROCERS, INC. AND CHARLES PARKER’S**  
**MOTION FOR SUMMARY JUDGMENT**  
**AND**  
**RESPONSE IN OPPOSITION TO REGIS INSURANCE COMPANY’S MOTION FOR**  
**SUMMARY JUDGMENT AND BRIEF**

COME NOW Defendants P&C Grocers, Inc. (“P&C”), and Charles Parker (“Parker”) and move the Court to overrule and deny the Motion for Summary Judgment filed by Regis Insurance Company (“Regis”) against Defendants, and grant P&C and Parker’s Motion for Summary Judgment, and as grounds say as follows:

1. There is no genuine issue as to any material fact.
2. Regis is not entitled to a judgment as a matter of law.
3. Judgment as a matter of law is due to be entered in favor of P&C and Parker.
4. Regis' claim that it has no duty to indemnify is not ripe for review until P&C or Parker are in fact held liable in the underlying suit.
5. The Court should exercise its discretion and decline to provide declaratory relief because the underlying suit has not yet been resolved and is close to trial.

6. In support of this Motion, P&C and Parker submit the following:
  - a. Prior pleadings and Court documents in the present case.
  - b. A copy of Judge Thompson's scheduling order filed in Cecilia Gibbs v. P&C Grocers, et al., 05-CV-00912-MHT-SRW, in the United States District Court for the Middle District of Alabama, Southern Division, attached hereto as Exhibit A.
  - c. Judge Thompson's order relating to P&C and Parker's Motion for Summary Judgment, attached hereto as Exhibit B.
  - d. Brief in support of this Motion and Response, attached hereto as Exhibit C.

WHEREFORE, THE PREMISES CONSIDERED, P&C and Parker respectfully request that the Court enter an Order granting summary judgment in their favor and against Regis.

Respectfully submitted this 29<sup>th</sup> day of August, 2006.

s/ James Douglas McElvy  
James Douglas McElvy (MCE006)  
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Charles Parker

OF COUNSEL:

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**CERTIFICATE OF SERVICE**

I certify that on August 29, 2006, the foregoing was electronically filed with the Clerk of the Court of the Middle District of Alabama using the CM/ECF system which will send notification of such filing and/or that a copy of the foregoing has been served by United States Mail, properly addressed and postage prepaid to the following:

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